

HONORABLE ROSANNA MALOUF PETERSON

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Attorney for Defendant American Medical Response  
Ambulance Service, Inc.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

Plaintiff,

v.

AMERICAN MEDICAL RESPONSE  
AMBULANCE SERVICE, INC.

Defendant.

No. 2:19-cv-00258-RMP

**ANSWER AND AFFIRMATIVE  
DEFENSES**

Defendant American Medical Response Ambulance Service, Inc. (“AMR”),  
by and through its undersigned counsel, answers Plaintiff’s Complaint and alleges  
affirmative defenses as follows:

JURISDICTION AND VENUE

1. Defendant does not contest subject matter jurisdiction.

2. Defendant does not contest venue in the United States District Court for the Eastern District of Washington.

PARTIES

3. Admit.

4. Admit.

5. Defendant admits that it has been an employer engaged in an industry affecting commerce at all relevant times. Defendant denies the remaining express and implied allegations of this paragraph.

ADMINISTRATIVE PROCEDURES

6. Admit.

7. Admit that a determination letter was issued. Deny that Title VII was violated and that there was a need to eliminate “discriminatory practices” or provide relief to Charging Party, Katherine Hall.

8. Admit that there were some communications. Deny that Defendant committed any discriminatory practice as alleged.

9. Admit.

10. Admit.

11. Admit.

STATEMENT OF CLAIMS

12. Denied.

1           13.    Admit.

2           14.    Admit, upon information and belief.

3           15.    Admit that on or about June 30, 2017, Hall provided notice of medical  
4 restrictions while working as a Paramedic and Field Training Officer that would  
5 not allow her to perform the essential functions of her assigned position.  
6 Defendant admits that Hall provided a note from her medical provider and stated  
7 her desire to train for other positions. Defendant denies these positions were a  
8 reasonable accommodation of her pregnancy-related medical restrictions, under the  
9 circumstances.

10          16.    Admit that Defendant was not able to grant Hall's requests for  
11 temporary alternative positions, and that as an alternative accommodation,  
12 Defendant offered Hall a job-protected leave of absence. Defendant denies the  
13 remaining allegations of this paragraph.

14          17.    Defendant denies for want of knowledge.

15          18.    Admit that on or about June 30, 2017, Hall provided an additional,  
16 revised medical restriction, this time limiting Hall's performance of duty to 12-  
17 hour shifts.

18          19.    Admit that Hall's modified requests still did not allow her to perform  
19 the essential functions of her assigned position, based in part on concerns raised by  
20 late calls or extrications in her position as a Paramedic who responds to 9-1-1  
21

1 emergency calls and provides prehospital care to members of the public. Denied  
2 as to the remaining allegations of this paragraph.

3 20. Admit that Defendant had and has policies or practices specifically for  
4 certain employees with restrictions caused by workplace injuries or workplace  
5 illnesses. Denied as to the remaining allegations, including to the extent the claim  
6 states that Defendant's policies and practices continue today as they existed in  
7 2017.

8 21. Denied.

9 22. Denied.

10 23. Denied.

11 PRAYER FOR RELIEF

12 This Defendant denies that Hall or the EEOC are entitled to any relief  
13 whatsoever by way of the Complaint.

14 GENERAL DENIAL

15 Any allegations or statements in the Complaint, including Plaintiff's Prayer  
16 for Relief, not expressly admitted are denied.

17 AFFIRMATIVE DEFENSES

18 By way of further answer and without waiving any allegations previously  
19 denied, the following affirmative defenses are asserted.

1           1.     Hall's damages, if any, were proximately caused by or contributed to  
2 by acts, omissions, and/or other legal duties of Hall's.

3           2.     Pending further discovery, Hall may have failed to properly mitigate  
4 her alleged damages, if any.

5           3.     Defendant acted reasonably, in good faith, and with reasonable  
6 grounds for believing that its conduct complied with the law.

7           4.     Without modifying Defendant's answers to the allegations in the  
8 Complaint, if a trier of fact were to conclude that any protected status or activity  
9 motivated, even in part, any employment decision challenged by Plaintiff, which  
10 Defendant expressly denies, Defendant affirmatively states that the same  
11 decision(s) would have been made without consideration of any protected status or  
12 activity.

13           5.     To the extent that punitive damages are claimed, Defendant had an  
14 express policy forbidding discrimination based upon gender and disability and a  
15 formal complaint procedure. Defendant relied in good faith on the majority and  
16 concurring opinions in *Young v. UPS*, 135 S.Ct. 1338, 1349-50; 1360-61 (2015), in  
17 which the United States Supreme Court expressly rejected the interpretation of the  
18 Pregnancy Discrimination Act and the Americans with Disabilities Act here  
19 proposed by the Commission, which defeats Plaintiff's claim for punitive damages  
20  
21

1 and demonstrates Defendant's good faith in following lawful practices with  
2 regarding to its transitional work assignment program.

3 6. Defendant's practices at times material to this case limited its  
4 transitional work assignment program to workers with job-related injuries or  
5 illnesses and where required by state law.

6 7. Pending further discovery, Plaintiff's claims may be subject to the  
7 defenses set forth in F.R.C.P. 12(b).

8 8. Plaintiff's claims should be strictly limited to the scope of  
9 discrimination charged, for failure to exhaust administrative remedies with respect  
10 to any theory of discrimination other than sex discrimination by a pregnancy  
11 discrimination theory.

12 RESERVATION OF RIGHTS

13 In further answer, Defendant reserves the right to amend and add additional  
14 defenses and make further claims as may be warranted by discovery and motion  
15 practice in this case.

16 DATED this 13<sup>th</sup> day of September, 2019.

17 JACKSON LEWIS P.C.

18  
19 By: s/ Barry Alan Johnsrud  
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Attorney for Defendant

**DECLARATION OF SERVICE**

The undersigned declares under penalty of perjury under the laws of the United States of America that on this day, I electronically filed a true and accurate copy of the document to which this declaration is affixed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

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Attorneys for Plaintiff

DATED this 13<sup>th</sup> day of September, 2019.

*s/ Heather H. Adams*

Heather H. Adams

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